

**MILLSTONE TOWNSHIP
BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 23, 2016**

Meeting called to Order by Chairman Novellino at 7:30 p.m.

Reading of Adequate Notice by Chairman Novellino.

Salute to the Flag and observance of a moment of silence for the troops.

Roll Call: Present - Barthelmes, Morelli, Novellino, Bailey, Frost and Ferro. Absent – Lambros, Conoscenti and Mostyn.

APPROVAL OF MINUTES: January 27, 2016

The Board having reviewed the meeting minutes and changes were incorporated, Mr. Morelli made a Motion to approve and Mr. Ferro offered a Second. Roll call Vote: Morelli, Ferro, Barthelmes, Bailey, and Novellino vote yes to approve the minutes.

APPROVAL OF MINUTES: February 24, 2016

The Board having reviewed the meeting minutes and changes were incorporated, Mr. Ferro made a Motion to approve and Mr. Barthelmes offered a Second. Roll call Vote: Ferro, Barthelmes, Morelli, Bailey, and Novellino vote yes to approve the minutes.

RESOLUTIONS:

Z15-10 LENZO, JAMES AND JOHN - -Block 17, Lot 8.04, 8.05 located in the HC Zone and part of Lot 10 located in the PCD Zone. Located at State Highway 33 consisting of 12.28+/- acres. Proposed use of property is for the sales and servicing of recreational vehicles. Applicant sought and received a D-1 variance to permit outdoor display of recreational vehicles.

Resolution Memorialization tabled to April 27, 2016.

Z16-01 PACE, VINCENZO, ANNA & EDUARDO - Block 54.03, Lot 3. Located at 43 Yellow Meeting House Road consisting of 1.16 acres in the R-80 Zoning District. Applicants sought and received variances to construct a 2,462 square foot addition to rear of the existing home with wheel accessibility. Variance needed for front yard setback where minimum setback is 50 ft. and applicant can only provide 31ft.

The Board having read the Resolution, Mr. Morelli made a Motion to memorialize the application and Mr. Ferro Offered a Second. Roll Call Vote: Morelli, Ferro, Bailey, Barthelmes and Novellino voted yes to memorialize the Resolution.

CARRIED APPLICATION:

Z15-11 SBRIGATO, JOHN - Block 62.02, Lot 41. Located at 9 Wetherill consisting of 1.88 acres in the R-130 Zoning District. Applicant installed a paved driveway. Applicant seeking a variance for lot coverage where 20% is permitted, applicant has lot coverage of 35.5%. Deemed Complete: 10-29-15. Date of Action: 2-26-15. Noticing required. Application heard in part and carried to 3-23-16 without need for further noticing; applicant granted extension to 3-31-16.

Member Barry Frost is has reviewed the video of the 2-24-16 Board Meeting, reviewed the exhibits and is now eligible to listen to the continuation of this matter and vote.

Attorney Vella announces that this is a carried application. He entered into evidence the following Exhibit:

A-8 Plan to Accompany Variance Application prepared by Geller Sive
 & Company dated 3-10-16

Attorney Vella announced that Mr. Geller and Mr. Sbrigato are still under oath.

Mr. Geller provided a brief recap of the project.

He advised that the Board had directed him to reduce the impervious coverage. Mr. Geller stated that the revised plan reflect that the impervious coverage has been reduced to 25% by removing the southerly driveway that encroaches the neighboring property.

The applicant was seeking to construct a 30ft. x 30ft. garage as shown on the plan. They propose to replace 125 s.f. of pavers and replace them with clean blue stone.

Attorney Vella asked Mr. Geller if in his calculations, he counted the blue stone as impervious coverage. The Board discussed impervious coverage. The Township considers stone to be an impervious surface.

Planner Heyer advised that the limitation of the accessory building is 1,800 s.f. for the property. This maximizes the accessory building coverage. Planner Heyer stated that the additional storage with the installation of the second garage would eliminate all of the outside clutter of vehicles.

Board Engineer Shafai inquired as to the number of trailers were located on the property. Mr. Sbrigato advised that three (3) trailers and twelve (12) cars, personal and collectable, are located on the property.

Chairman Novellino opened the application to the public at 7:54 p.m. and seeing no public comment on the application, he closed that portion at 7:54 p.m.

Mr. Ferro suggested removing the pavers and putting one-foot wide strips of stone or pavers for the vehicle tires. The Board and applicant discussed this solution and all agreed that this was a good compromise.

The garage would be 16 ft in height and match the color of the existing garage. The applicant would submit an application to the construction department.

Attorney Vella advised that if the Board votes affirmatively on this application, conditions of approval would be as follows, including but not limited to the removal of the pavement as referenced in Exhibit A-8 plan prepared by Mr. Geller, removal of the blue stone on the plans that would surround the garage and replace that with grass, permission to provide a 1ft. X 30ft. pavement area in specified locations subject to the approval of the Board Engineer, installation of the garage will be done after the pavers are removed, no construction shall begin until after the pavement is done, all to be completed within 90 days of the memorialization of the Resolution.

The Board advised the applicant that he could begin to remove the pavers now.

Mr. Ferro made a Motion to approve the application as conditioned and a Second was offered by Mr. Frost. Roll Call Vote: Ferro, Frost, Morelli, Bailey, Barthelmes and Novellino vote yes to approve the application as conditioned.

NEW APPLICATION:

Z16-02 -GALLAGHER, WILLIAM - Block 35.03, Lot 15 located at 38 Cheryl Lane consisting of 3.03 acres in the R-130 Zoning District. Applicant seeks relief from steep slope ordinance Section 9-5.2 for the installation of a 20 ft. x 40ft. in ground pool. Deemed Complete 2-5-16. Date of Action: 6-3-16. Noticing required.

Attorney Vella announced that he has reviewed the noticing packet and finds same in order to accept jurisdiction over this application.

Attorney Vella read the following exhibits into evidence:

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| A-1 | Jurisdictional packet |
| A-2 | Application dated 2-5-16 |
| A-3 | Web Notice |
| A-4 | Aerial |

Attorney Vella swore in Mr. Gallagher.

Mr. Gallagher explained to the Board that he had decided to install an in-ground swimming pool utilizing Seasonal World who had applied for the permits. The Zoning Officer found that a steep slope area existed where the pool is to be built. Mr. Gallagher advised that the pool is to be located 45-feet from the house. The proposed pool encroaches into the steep slope. Mr. Gallagher is proposing to construct a retaining wall of 3.4 feet in height.

Board Engineer Shafai advised that there is not any other area where the pool could be located. He stated that the Township would require a retaining wall but the ordinance does not say how high the wall should be.

To the wooded area, a steep slope exists. No trees are to be removed. The area is all grass and the back yard slopes up.

The Board asked the applicant if there were any issues with neighbors and with water. Mr. Gallagher stated that no.

Mr. Morelli asked if any special engineering is required. Engineer Shafai advised that the steep slope is a man-made slope and he does not see any problem.

Chairman Novellino opened the application to the public at 8:10 p.m. Seeing no public comment, he closed the public portion at 8:11 p.m.

The Board discussed the application. If the Board votes to approve the application, conditions of approval would be that the plans are subject to approval by the construction department and the engineer.

Mr. Bailey made a Motion to approve the application as conditioned and Mr. Frost offered a Second. Roll Call Vote: Bailey, Frost, Barthelmes, Morelli, Ferro and Novellino vote to approve the application as conditioned.

Z15-12 - STAVOLA ASPHALT CO. - Block 18, Lots 3,4,5 &5.01 located at Bergen Mills Road & Old Route 33. The property consists of 29.99 acres in the PCD Zoning District. Applicant seeks Use Variance (D1) approval to modify the operational hours of the facility. Deemed Complete 12-15-15. Applicant has granted a Date of Action through April 30, 2016.

Attorney Vella announced that he has reviewed the noticing packet and finds same in order to accept jurisdiction over this application.

Attorney Vella read the following exhibits into evidence:

- A-1 Jurisdictional packet
- A-2 Application dated 10-2-15
- A-3 Web Notice
- A-4 Color Aerial
- A-5 Outbound and Topographic Survey of property prepared by Concept Engineering dated 11-8-96
- A-6 Use Variance Plan prepared by Crest Engineering dated 9-22-15 property
- A-7 Noise Assessment Report prepared by Potenta Environmental Consultants, LLC dated 10-5-15 consisting 7 pages
- BOA-1 Engineer's Report dated 12-15-15
- BOA-2 Planner's Report dated 12-23-15
- BOA-3 Environmental Commission Report dated 10-28-15

Attorney William Mehr representing the applicant.

Mr. Mehr explained that this is a bifurcated application.

Attorney Vella asked Mr. Mehr to explain the agreement with the Township.

Mr. Mehr stated that in 1971, an application was filed with the Township Governing Body to build the plant. In 1972, the Governing Body authorized in a written agreement similar to a developer's agreement to confirm an asphalt plant was to be a permitted use in this area. He explained the conditions of this approval. There was only one access and that was off Old Bergen Mills Road

Mr. Mehr explained that trucks could only utilize Bergen Mills Road and Old Bergen Mills Road to access the site. The hours of operation were limited. The roads were to be maintained by the asphalt plant and the area was to be fenced.

Mr. Mehr stated that in the 1980's, Stavola purchased the plant from the Sutphens. At the time that the Town signed the agreement, the Zoning Board did not exist. He explained how the plant became a pre-existing non-conforming use.

Mr. Mehr reported that two new properties were purchased for building a driveway from the plant with access directly onto Route 33. The NJDOT has approved this plan. He explained that this access would allow them not to use the Old Bergen Mills Road and Bergen Mills Road.

Mr. Mehr feels that the Township did exercise zoning property, but feels now, this application is in the jurisdiction of this Board. He explained that the intensity of the use would change when the hours of operation change.

Mr. Mehr reported that Mr. Branch, the Plant Manager, has been in touch with surrounding residents to the east and the north of the property.

Attorney Vella reported that it was his understanding the expansion of hours of the operation has been discussed with the Township. If Board granted approval, they would go back to the Township Committee to have them modify their agreement.

Mr. Mehr feels that the Board of Adjustment has the authority to change the hours of operation without the Township being involved.

The appropriate decision is to let applicant proceed with their application.

Attorney Vella swore in Thomas Branch, Vice President of Stavola. He presented his credentials. He has a bachelor's degree in civil engineering and a master's in environmental science. Mr. Branch advised that since 2003, he has been overseeing the engineering and compliance program for the Plant. He is the point of contact.

Mr. Branch advised that since the 1980's, Stavola has utilized a truck route off of Route 33 and Bergen Mills Road to Old Bergen Mills Road. He stated that the hours of operation were established years ago, 6 a.m. to 6 p.m., Monday through Friday, Saturday 6 a.m. to 12:00 p.m. They have no plans to increase the size of the Plant.

Mr. Branch stated that Stavola manufactures asphalt. He stated that most paving is done at night. Stavola wants to compete for projects. The asphalt must be made within a certain period and then placed on the highway.

Mr. Branch explained that the purchase of the additional lots affords them an opportunity to construct a dedicated driveway onto Route 33 and eliminate truck traffic all of the time. He explained that their business is geographically placed and they want to compete.

Marked into Evidence are the following Exhibits:

A-8 Mounted Picture of Existing Conditions at Corner of Old Rt. 33 and

Bergen Mills Road

A-9 Mounted Picture of Proposed Conditions at Corner of Old Rt. 33 and Bergen Mills Road

A-10 Mounted Aerial

Mr. Branch explained that the night projects call for 1200 to 1500 tons determined by time frames allowed by the NJDOT to place the asphalt on the roadway for travelling on the next day. He explained how this worked. After the road is milled, the asphalt is brought to the job site, placed, rolled and cooling time must be allowed for. Tonnage is limited by how fast and effective you can place the material on the road area. Asphalt must maintain a temperature monitored by a NJDOT inspector.

Mr. Branch stated that 48 to 60 trucks are entering and exiting the site throughout the entire night. The timeframe is 9:00 pm to 10:00 a.m. There are 7 to 9 trucks entering and exiting the site per hour. Hot mix (4 silos hold 200 tons of hot asphalt per silo) can be made in advance to give them a head start on the job. Heated silos keep asphalt temperature consistent.

Mr. Branch stated that raw materials are delivered to the site. During daytime hours. The cement must be continuously delivered and you would expect to see 3 trucks of ac oil being delivered during the night. They have ac oil silos that keep the oil hot.

Mr. Branch advised there would be no night operations unless they have a job. Then the operation would be Monday through Friday night. No Saturdays and very few Sundays.

Regarding noise, the applicant has a noise expert but Mr. Branch touched on that subject briefly stating that the Plant has a noise conveyor system.

Mr. Branch discussed residential concerns. He stated that the banging of tailgates were a concern. He explained how he addressed that. They have signage, inspectors make sure truck drivers adhere to their policy. He reported that the banging of tailgates occurs primarily when there are stone deliveries. In order to get all of the material out of that type of truck, the material drops out at a certain rate. Mr. Branch advised that they will not tolerate this and have terminated drivers who bang the tailgates. Mr. Branch explained the procedure.

Mr. Branch explains the color rendering of the site and how they plan to berm the area.

Attorney Vella marked the following exhibits into evidence:

A-11	Mounted Color Rendering of the Site Plan
A-12	Picture of Proposed Intersection - one years growth of landscape
A-13	Picture of Proposed Intersection - ten years growth of landscape
A-14	Picture of Existing Intersection
A-15	Mounted Color Landscape and Lighting Plan
A-16	Mounted Sight Line Study consisting of 5 sheets

Mr. Branch explained that asphalt production during daytime would be slightly increased if materials are needed at night.

Mr. Branch explained that four (4) employees will be at the site during the day and then four (4) employees will work at the site for night production. Only four employees on the site during one shift.

Mr. Branch stated that they are regulated by NJDEP for air permits which they have. The NJDEP requires that an asphalt plant burner be evaluated. They operate at peak performance and every 500 hours, they are tested again for emissions. He explained that there are quarterly maintenance schedules.

Mr. Branch advised that they are required to comply with stormwater management regulations.

Mr. Mehr stated that if variance approval is not granted, they will refurbish and rent out the two homes that they purchased for the proposed driveway to Route 33.

Chairman Novellino asked about the old highway millings that they replace. Mr. Branch stated that said they are recycled into a new mix. He explained where they are stored awaiting recycling. There is an exemption to allow them to utilize a portion of the millings. A milling and screening machine processes the old millings. This is done during the day.

Mr. Branch stated that Stavola utilizes outside truckers which is more cost efficient. Customers pick up their own product with their own trucks. Stavola has a plant in Howell which has nighttime operations. They have a competitor plant in Kingston.

The temperature of the asphalt was discussed and Mr. Branch advised that the temperature limits are determined by the NJDOT. Nighttime operations on a project

could go on from March to December. Extra Silos would not be effective and Mr. Branch explains why. He discussed the different ways in which to eliminate noise.

Mr. Ferro asked about the conveyor belt which is both tall and loud. Mr. Branch explained about the vertical incline and cross conveyor at the top. It is 70 feet high and lights are located at the top for emergency or repair only. Down lights are there to assist employees should a problem arise with the conveyor.

There was a question about afterglow and Mr. Mehr advised that the applicant's engineer, Peter Strong would testify regarding that.

Mr. Branch discussed driver training and stated that they have to comply with the rules. They have personnel located in the yard and at the front gate to enforce the rules.

The Board voiced its concern about the importance of having quieting items in place to reduce the sound.

The Board asked what precautions are taken to protect the Millstone River.

There is Township Ordinance regarding engine braking.

Mr. Barthelmes asked about the 4 employees who are at the site fulltime. Mr. Branch explained they work in shifts with no more than 4 employees at each shift. He stated that most other facilities can operate at night. Mr. Branch is only aware of this plant which does not have night operations.

Attorney Vella swore in Peter Strong of Crest Engineering who is testifying as a P.E. this evening and whose credentials are known to the Board.

Referring to Exhibit A-10 Aerial, Mr. Strong described the current site conditions and the potential improvements.

Lot 4 has all of the equipment located on it. This is the site of the original 1972 approval. To the west, Lot 3 is where the materials are stored. Lots 5 and 5.01 have residents on them.

Exhibit A-11 shows the potential new driveway that has NJDOT approval. Mr. Strong explains that it does not line up with the River. Mr. Strong explained that berming, installation of a sound wall and buffers have been established outside of the environmental conditions.

Chairman Novellino asked about the 1972 Agreement which was only for Lot 4. Attorney Vella stated that when the Township rezoned, they did include lots 3 and 4 and

permit the stockpile of material. He stated that with this change, it made it pre-existing and non-conforming. The property was re-zoned subsequent to the Agreement.

Mr. Mehr stated that they are looking for that to be carried over in this application. He stated that information to clarify this is missing or cannot be located.

Chairman Novellino asked what was permitted and what are do they propose to expand. Engineer Shafai stated that in the 1972 Agreement, it states that the property is 9.75 acres.

If the zoning ordinance includes Lot 3 in 1972 or 1973, then when they operated it was a permitted use by ordinance.

Mr. Strong continued with his presentation. He explained how they calculated and prepared stormwater management to handle the drainage. The pavement onsite will help handle the truck traffic. Trucks travel is on pavement today and will continue to do so.

To address lighting onsite, Mr. Strong refers to the landscape plan that the Board has received as A-15 mounted colored landscape and lighting plan. Mr. Strong explains that in order to allow for proper directions for the drivers, they have period lights for the route. They propose shoebox lighting, downward facing ,16-feet tall per ordinance. The public is protected by the lights via the berms that they are proposing, 25-foot high inside of the berm. He stated that the proposed berm totally hides the light station.

Mr. Strong stated that the proposed berms are 25-feet tall and are to be located along existing roadways with an 8-ft fence along the top and plantings and trees on the flat portion of the berm. Outside the fence, along the outside edge, plants and trees and shrubs will be installed.

There was discussion regarding the survival of balled and burlap trees as opposed to whips, along with the best plant species for such a berm.

The Board wanted to make sure that the soil for the berm is clean soil and Engineer Shafai stated that there is an Ordinance in place to require that.

It was noted that Site Plan approval is needed, NJDEP approval, Freehold Soil Conservation District approval and Delaware Raritan Canal Commission approval.

Marked into evidence, Exhibit A-16 consisting of 5 sheets, Site Line Study.

Mr. Mehr explained how they prepared the site to also allow for deciduous trees in winter time. The applicant feels that from any of the areas the site is being blocked by the berms, trees and fencing. Silos are painted tan.

Chairman Novellino advised the applicant to address the smell associated with the project, noise and air quality.

Engineer Shafai asked about restrooms on the site. Mr. Strong reported that the bathroom is located in the maintenance building scale room.

Chairman Novellino opened the application to the public 10:18 p.m.

Attorney Vella swore in Dorothy Sluzas, 7 Arrowhead Way. Ms. Sluzas advised that she has lived there for 10 years. She stated that a lot of noise and truck banging did occur. She reported that she would call Mr. Branch each time of the incident and each time Mr. Branch did work hard to try to control it. Ms. Sluzas stated that the banging and horn blowing is continual. She is concerned over the increase in this activity.

Mr. Mehr stated that if this application receives approval, the applicant must return for Site Plan approval. He explained the D Variance process.

Ms. Sluzas stated that the noise is difficult in the daytime but they do not have to accept it at night or on the weekend. She stated that they don't have to give up their lives.

There was a question about the maintenance of the roads. Mr. Mehr stated that Stavola maintains the roads presently, but if approval is granted, the Township would be responsible for the maintenance. Stavola would have the new driveway. Ms. Sluzas feels people will still use the Bergen Mills and Old Bergen Mills Road.

The Board asked if we have adequate infrastructure to handle trucks. Engineer Shafai reported that this is a State intersection and they have a State permit. We don't have jurisdiction over this.

Attorney Vella sworn in Jim Whitney 31 Indian Path. Mr. Whitney stated that he lives one-half mile from the asphalt plant and he has lived here for 18 years. Mr. Whitney voiced that he has two concerns.

From an environmental aspect, he is concerned about possible oil runoff from the trucks and from the ac cement. He offered that contractors oil down the body of truck with diesel fuel so that asphalt does not stick. Mr. Whitney has witnessed plumes of smoke. He stated that it may not happen often but it does happen on occasion.

Attorney Vella swore in Richard McDonald of 19 Bergen Mills Road. Mr. McDonald has lived here for 15 years. He stated that .Stavola has been a good neighbor stating that if there is noise they have taken care of it. He is concerned about the environmental aspects of the plant. He is concerned about the smell. He bought his house knowing the plant was there. The plant runs from 6:00 a.m. until 6:00 p.m. His concern is the

impact of the plant running for 24-hours. Mr. McDonald explained that you can hear the plant running.

He offered that if this berm will fix the noise, why did they not fix it years ago and not wait until it makes money for them. Mr. McDonald stated that there is no guarantee that the berming will quell the noise of running the facility 24-hours. He stated that the noise at night is a huge negative.

Attorney Vella Swore in Edward DiFiglia of the Stony Brook Millstone Watershed Association. He stated that the Watershed has some concerns. He stated that the section of the Millstone River next to the property is a Category 2. He explained their concern was this section of the River's water quality is impaired by arsenic, e-coli, etc. He expressed their concern that this expansion will drastically change the stormwater runoff. He asked that the stormwater aspect be tied to the D Variance and not site plan. Their concern is to reduce the pollutants going into the River.

Seeing no further public comment at this time, Chairman Novellino closed that portion at 10:42 p.m.

Attorney Vella made the announcement that the application is being carried to the April 27, 2016 meeting beginning at 7:30 p.m. without any further public noticing. Exhibits may be viewed by the public at the Municipal Offices located at 470 Stagecoach Road during normal business hours.

Seeing no further new business or old business, Mr. Barthelmes made a Motion to Adjourn, Mr. Bailey offered a Second and by unanimous vote, the Meeting Adjourned at 10:45 P.M.

Respectfully submitted,

Pamela D'Andrea